

A LEGAL PERSPECTIVE OF TRIPLE TALAQ



Vivek Kumar Madhesiya

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A LEGAL PERSPECTIVE OF TRIPLE TALAQ offers a comprehensive examination of the controversial practice of Triple Talaq within the context of Islamic law and Indian judicial system. This edited volume features insightful contributions from legal scholars, practitioners, and researchers, addressing the legal, social, and historical dimensions of Triple Talaq. The book provides an in-depth analysis of significant court rulings, legislative developments, and the impact of Triple Talaq on women's rights. Ideal for legal professionals, academics, and anyone interested in contemporary issues of law and society, this volume serves as a valuable resource for understanding the legal challenges and debates surrounding this practice.



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Preface

The practice of *Teen Talaq*, or instantaneous triple talaq, has long stood at the intersection of religious tradition, patriarchal social customs, and constitutional rights in India. For centuries, a three-second utterance held the power to irrevocably dismantle decades of marital life, often leaving women in a state of sudden destitution and legal limbo.

This book was born out of a need to deconstruct the "validity-sinfulness paradox"—the historical phenomenon where a practice condemned as a "grave sin" (*ithm*) and a "blameworthy innovation" (*bid'ah*) by Islamic jurists was nonetheless granted legal sanctity by the state. Through these chapters, we explore the journey of *Teen Talaq* from its origins in early caliphates to its eventual invalidation by the Supreme Court of India in the landmark *Shayara Bano* case. Our objective is to provide a holistic view that respects the depth of Islamic jurisprudence (*fiqh*) while affirming the supremacy of constitutional values such as equality (*Article 14*) and dignity (*Article 21*). It is my hope that this work serves as a resource for scholars, activists, and anyone seeking to understand the complex evolution of gender justice within the Indian legal landscape.

Acknowledgement

Writing a book on a subject as sensitive and multi-faceted as *Teen Talaq* requires the support and insight of many.

I am deeply grateful to the legal scholars and theologians whose work provided the foundational understanding of the Quranic and Sunnah-based models of divorce—models that prioritize deliberation and reconciliation over impulsivity.

Special thanks are due to the courageous women like Shayara Bano and organizations such as the Bharatiya Muslim Mahila Andolan (BMMA), whose tireless activism brought the lived realities of thousands into the halls of justice. Their struggle transformed a private trauma into a national dialogue on gender equality.

I would also like to thank my colleagues and family for their patience and encouragement during the long hours of research and writing. Finally, I acknowledge the researchers and legal practitioners whose documentation of court proceedings and legislative debates was instrumental in shaping the analytical chapters of this book.

Foreword

The evolution of personal laws in a pluralistic democracy is a journey fraught with tension between community autonomy and individual rights. In the Indian context, the debate over *Teen Talaq* has been a defining chapter of this narrative. It has forced a reckoning with how "essential religious practices" are defined and how the state must act as a guarantor of dignity for its most vulnerable citizens.

In this volume, the author meticulously traces the shift from a regime of "formalistic interpretation" to one of "substantive justice". By examining the global landscape—where over 20 Muslim-majority nations had already restricted or banned the practice—this book demonstrates that the Indian reform was not an external imposition but an internal correction aligned with the highest ethical principles of Islam.

This work is timely and essential. It goes beyond the headlines of criminalization to analyze the ongoing challenges of legal literacy, social awareness, and the economic security of women. It is a vital contribution to the discourse on how modern legal systems can bridge the gap between ancient traditions and contemporary human rights.

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